

Course Outline

COURSE:	LAWS 4603B – Transitional Justice
TERM:	Fall 2021
PREREQUISITES:	LAWS 2908 or PAPM 3000 and fourth-year honors standing
CLASS:	Day & Time: Monday, 11:35am – 2:25pm Room: Nicol Building, Room 4030 Weekly, in-person
INSTRUCTOR:	Dr. Tiffany MacLellan
CONTACT:	Office: B442 Loeb Building (Contract Instructor’s Office) Office Hrs: Mondays 3:00pm – 4:00pm or by appointment
	Email: tiffanymacellan@cunet.carleton.ca

CALENDAR COURSE DESCRIPTION

Legal and ethical responses to human rights violations in the transition to democracy. Dilemmas of the rule of law; truth and reconciliation; prosecution and punishment; amnesty; retribution and revenge; restorative justice; administrative remedy; reparations; International case studies. Theoretical arguments about justice in context of country.

COURSE DESCRIPTION

Criminal trials, truth and reconciliation commissions, and memorials are typical mechanisms that states and political communities resort to in their effort to attain justice after mass atrocity. These approaches to justice are typically framed in socio-legal literature as transitional because they are evoked during a period of political transformation. As such, transitional justice mechanisms are frequently configured as the means through which political communities can “break” from violent pasts, reconcile, and progress towards a future premised on respect for human rights. This course explores the practice and limitation of transitional justice mechanisms in Canada. It will focus on state-based as well as Indigenous and Inuit-led approaches to grappling with colonial violence.



Photo Credit: Donna Heimbecker. The doors of St. Paul Co-Cathedral in Saskatoon following the news of an estimated 751 unmarked graves found at Marieval Indian Residential School.

REQUIRED TEXTS

All course materials are available through Brightspace.

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

Participation (20%)

Much of the intellectual value of this course arises from in-class discussions. As this course is taught in a seminar format, students are expected to prepare themselves by reading all materials prior to each class. The goal is to make the seminar a productive, place to think through the material together, and respectfully. Participation marks are earned by attending the seminar and quality contributions to class discussion. As this course is organized in seminar format, all students are expected to come to class prepared. 5% of this participation mark is devoted solely to your attendance and participation in the final two weeks of the course.

Seminar Facilitation (15%)

Each student will be required to facilitate discussion on one mandatory reading throughout the semester. Each student should prepare a 10 minute reflection on the reading's key themes and arguments. Facilitations of the readings should provide: 1) an accurate summary of the author's arguments; 2) a description of the key concepts used to mount the argument; 3) a critical analysis of the argument, and; 4) 3, open ended questions. Facilitations can unfold in traditional, creative or casual formats, yet rigor and clarity is required. What I am looking for is for each student to explain the reading and formulate questions that will provoke class discussion and engagement.

Criteria	Weight
Summary of argument	4 marks
Description of key concepts	3 marks
Critical engagement	5 marks
Quality questions	3 marks
TOTAL	15 marks

Due: Materials must be uploaded to Brightspace prior to the class within which the student is presenting.

Research Paper Proposal (15%)

Each student's research proposal must identify their proposed topic and potential argument, and include an annotated bibliography (5 sources minimum) that indicates the key theoretical approaches the student intends to use. I will not mark final papers from students who have not submitted their paper proposal in advance. All students are encouraged to attend my office hours for support through-out the paper proposal development process.

Criteria	Weight
Topic and argument is relevant to course themes	5 marks
Quality annotations that clearly explain how the readings will advance argument	10 marks
TOTAL	15 marks

Due: November 10th at 5pm via Brightspace.

Research Paper (50%)

Student's final papers will advance a clear argument, draw on academic research and course materials, identify the key debates, be well organized and properly cited. Paper should be no more than 3500 words. All assignments must use 12 point Ariel or Times New Roman font, be double spaced, and adhere to the citation rules set forth in the McGill or the Chicago style manual.

Criteria	Weight
Accurate and rigorous engagement with the appropriate academic literature	25 marks
Clearly articulated and supported argument	10 marks
Well organized; proper grammar	10 marks
Correct citation style	5 marks
TOTAL	50 marks

DUE: December 6th at 5pm via Brightspace.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

Assignments submitted after the due date will be accepted at the cost of 3 marks per day.

The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

SCHEDULE**Introduction: September 13th**

Course introduction, expectations, seminar facilitation sign-up.

What is Transitional Justice: September 20th

Paige Arthur, "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice" 31 (2009) Human Rights Quarterly 321–67.

Ruti G. Teitel, "Transitional Justice Genealogy" 16 (2003) *Harvard Human Rights Journal* 69–94.

Limits of Transitional Justice: September 27th

Stauffer, Jill. "Ethical Loneliness" and "Repair." In *Ethical Loneliness: The Injustice of Not Being Heard*, 9-33 and 34-68. New York: Columbia University Press, 2015.

Viebach, Julia "Transitional Archives: Towards a conceptualization of archives in transitional justice," *The International Journal of Human Rights* 25 (2021): 403-439.

Decolonization: October 4th

Simpson, Audra, "The Sovereignty of Critique." *South Atlantic Quarterly* 119 (2020): 685–699.

Eve Tuck and K. Wayne Yang, "Decolonization is not a Metaphor," *Decolonization: Indigeneity, Education & Society* 1 (2012): 1-40.

Decolonization and Transitional Justice: October 18th

Park, Augustine, "Settler Colonialism, Decolonization and Radicalizing Transitional Justice," *International Journal of Transitional Justice* 14 (2020): 260-279.

Jung, Courtney, "Reconciliation: Six Reasons to Worry," *Journal of Global Ethics* 14 (2018): 252-265.

Jennifer Matsunaga, "Two faces of Transitional Justice: Theorizing Incommensurability of Transitional Justice and Decolonization in Canada," *Decolonization: Indigeneity, Education & Society* 5 (2016): 24-44.

Truth Commissions (State Led): November 1st

Truth and Reconciliation Commission of Canada Honoring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada. Introduction (2015): 1-23.

Rosemary Nagy, "The Truth and Reconciliation Commission of Canada: Genesis and Design" *Canadian Journal of Law and Society* 29 (2014): 199–217.

Vanthuyne, Karine, "I Want to Move Forward. You Can Move Forward Too." *Articulating*

Indigenous Self-determination at the Truth and Reconciliation Commission of Canada," *Human Rights Quarterly*, 43 (2021): 355-377.

Truth Commissions (Community Led): November 8th

Goldring, Philip, "Historians and Inuit: Learning from the Qikiqtani Truth Commission: 2007-2010," *Canadian Journal of History* 50 (2015): 492-523.

Final Report: RCMP Review of Allegations Concerning Inuit Sled Dogs (2006): 8-23.

Qikiqtani Truth Commission Thematic Report and Special Studies: Analysis of the RCMP Sled Dog Report (2013): 10-19.

Reparations and Compensation: November 15th

Indian Residential Schools Settlement Agreement: An Overview

<https://www.rcaanc-cirnac.gc.ca/eng/1100100015576/1571581687074#sect1>

Cindy Hanson, "Gender, Justice, and the Indian Residential School Claims Process," *The International Indigenous Policy Journal* 7 (2016): 1-18.

Matsunaga, Jennifer, "The Red Tape of Reparations: Settler Governmentalities of Truth Telling and Compensation for Indian Residential Schools," *Settler Colonial Studies* 11 (2021): 21-41.

Memory and Commemoration: November 22nd

Cooper-Bolam, Trina, "On the Call for a Residential Schools National Monument," *Journal of Canadian Studies* 52 (2018): 57-81.

Carr, Geoffrey. "Atopoi of the Modern: Revisiting the Place of the Indian Residential School." *English Studies in Canada* 35 (2009): 109-135.

Cynthia E Milton, Anne-Marie Reynaud, "Archives, Museums and Sacred Storage: Dealing with the Afterlife of the Truth and Reconciliation Commission of Canada," *International Journal of Transitional Justice* 13 (2019): 524-545.

Memorial Museums: November 29th

Dean, Amber and Angela Failler, "'An Amazing Gift'? Memory Entrepreneurship, Settler Colonialism and the Canadian Museum for Human Rights," *Memory Studies* 14 (2021): 451-465.

Dhamoon, Rita Kaur, "Re-presenting Genocide: The Canadian Museum of Human Rights and Settler Colonial Power," *Journal of Race, Ethnicity and Politics* 1 (2016): 5-30.

Failler, Angela and Karen Sharma, "Shoal Lake 40's Living Museum: A Photo Essay," Centre for Research In Cultural Studies (2015). <https://www.uwinnipeg.ca/crics/projects/shoal-lake-photo-essay%20.html>

The Arts of Transitional Justice: December 6th

McCall, Sophie. "Reframing, De-Framing, and Shattering the Frames: Indigenous Writers and Artists on Representing Residential School Narratives," *Studies in American Indian Literature* 32 (2020): 1-25.

Henderson, Jennifer. "Residential School Gothic: Genre Friction I Rhymes for Young Ghouls," *American Indian Culture and Research Journal* (42): 2018: 43-66.

Concluding Thoughts: December 10th

Carleton University, "*Kinàmàgawin* (Learning Together): Carleton University's Strategic Indigenous Initiatives Committee." <https://carleton.ca/indigenousoinitatives/wp-content/uploads/Kinamagwin.pdf>

COVID-19 PREVENTION MEASURES

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits,

designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs.

For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

ACADEMIC ACCOMMODATIONS

Academic Accommodation

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

Academic Accommodations for Students with Disabilities: [The Paul Menton Centre for Students with Disabilities](#) (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/student-experience-resources/>.